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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,688	08/05/2003	Vincent Alan Larsen	SAGE-26,419	8367

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EXAMINER
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ART UNIT	PAPER NUMBER
2115	

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 January 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *1/10/03-12/27/05*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-20 are presented for examination.

Drawings

2.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference number 26 in Figure 11 is not mentioned in the specification. Additionally, Reference numbers 326 and 328 in Figure 12 are not mentioned in the specification. Additionally, Reference numbers 364 in Figure 14 is not mentioned in the specification. Additionally, Reference numbers 380 and 390 in Figure 15 are not mentioned in the specification. Additionally, Reference number 444 in Figure 18 is not mentioned in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter, which the applicant regards as his invention.

4.   Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

5.   Claim 1 recites the limitation "said process of booting" in line 11 of claim 1.

There is insufficient antecedent basis for this limitation in the claim.

6.   Claim 6 recites the limitation "the step of checking" in line 1 of claim 6. There is

insufficient antecedent basis for this limitation in the claim. Additionally, claim 6 recites

"a second boot sequence in line 3 of claim 6. It is unclear whether this is intended to be

the same as or different from the "second boot sequence" recited in claim 1 line 9.

7.   Any claim not specifically addressed, above, is being rejected as incorporating

the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noll

(US Patent No. 6,185,696) in view of Yen (US Patent No. 6,381,694).

10.   As per claims 1 and 12, Noll teaches the invention comprising:

initializing the digital device including a first memory device and a second

memory device (Figure 1 Reference number 22 and 30 and Col. 7 lines 60-67 and Col

8. lines 1-5);

reading the first memory device to determine if the first memory device includes a

first boot sequence (Figure 1 Reference number 22);

if the first boot sequence is present, booting the digital device using the first boot

sequence on the first memory device (Col. 7 lines 3-11 Booting in a conventional

manner meaning using the primary BIOS to initialize the computer);

if the boot sequence is not present, reading a second boot sequence from the

second memory device (Figure 1 Reference number 30 and Col. 7 lines 60-67 and Col

8. lines 1-5);

booting the digital device using the second boot sequence wherein said process

of booting includes the steps of reformatting the first memory device, reading software

from said second memory device and storing said software on said first memory device.

(Col. 8 lines 13-18)

11.   Noll, however, does not teach that that the process of booting includes reading

operating system software from the second memory device and storing the software in

the first memory device. Specifically, Noll teaches a start up rebuilding system for a

computer having a first memory device having a first BIOS and a second memory

device having a second BIOS identical to the first BIOS code. If the BIOS code is

present on the first memory device the computer is initialized in the conventional

manner. If the BIOS code is not present, the computer reads the second BIOS code

from the second memory device and stores the second BIOS code on the first memory device. Noll does not teach that the software read from the second memory device and stored on the first memory device is operating system software.

12.   Yen teaches a rebuilding system for a computer having two different memories containing identical operating system software to initialize the computer. Yen teaches if the first boot sequence is present, booting the digital device using the first boot sequence on the first memory device (Col 3 lines 36-47); if the boot sequence is not present, reading a second boot sequence from the second memory device (Col. 3 lines 48-50 and 66-67 and Col. 4 lines 1-7); booting the digital device using the second boot sequence wherein said process of booting includes the steps of reformatting the first memory device, reading software from said second memory device and storing said software on said first memory device (Col. 7 lines 42-61). In summary, Yen teaches a method of rebuilding a computer system having two memories with operating system software used to initialize a computer. If the first memory is not present then the computer reads the operating system software from the second memory device and then stores the operating system software in the first memory device.

13.   It would have been obvious to one of ordinary skill in the art to combine the teachings of Noll and Yen because they both teach rebuilding system for a computer start up routine having two memories with identical software. Yen teaches the deficiency of Noll by teaching the software being read and stored in both the first and second memory devices being operating system software.

14.   As per claim 2, Yen teaches the invention comprising:

wherein said first memory device is a hard disk drive (Col. 3 lines 11-13 and lines

36-41).

15.   As per claims 3 and 20, Yen teaches the invention comprising:

wherein said second memory device is a flash memory device (Col. 4 lines 19-

26).

16.   As per claim 4, Yen teaches the invention comprising:

wherein said software is operating system software (Col. 7 lines 42-61).

17.   As per claims 5 and 15, Yen teaches the invention comprising:

wherein said operating system software includes process-based security

protocols (It would be obvious that the operating system software includes process

based security protocol).

18.   As per claim 6, Yen teaches the invention comprising:

further comprising the step of checking, before booting the digital device using

the first boot sequence, for a manual rebuild condition, such that if the manual rebuild

condition is present, reading a second boot sequence from the second memory device

and booting the digital device using the second boot sequence (Col. 4 lines 47-65 and

Col. 5 lines 17-25)

Additionally, Noll teaches the invention comprising:

further comprising the step of checking, before booting the digital device using

the first boot sequence, for a manual rebuild condition, such that if the manual rebuild

condition is present, reading a second boot sequence from the second memory device

and booting the digital device using the second boot sequence (Col. 7 lines 3-16)

19.   As per claims 7 and 16, Yen teaches the invention comprising:

wherein said digital device is a computer (Col. 3 lines 20-23).

20.   As per claims 8 and 17, Yen teaches the invention comprising:

wherein said digital device is a special purpose computer (Col. 3 lines 20-23).

21.   As per claim 9, Yen teaches the invention comprising:

wherein said special purpose computer is an Internet appliance (Col. 3 lines 20-

23).

22.   As per claims 10 and 18, Yen teaches the invention comprising:

wherein said digital device is a web server (Col. 3 lines 20-23).

23.   As per claims 11 and 19, Yen teaches the invention comprising:

wherein said digital device is an email server (Col. 3 lines 20-23).

24.   As per claim 13, Yen teaches the invention comprising:

wherein said software stored on said reformatted first memory device includes a

new first boot sequence (Col. 1 lines 66-67 and Col 2 lines 1-13).

25.   As per claim 14, Yen teaches the invention comprising:

wherein said software stored on said reformatted first memory device includes

operating system software (Col. 7 lines 42-61).

Conclusion

26.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sean Weinman whose phone number is (571) 272-

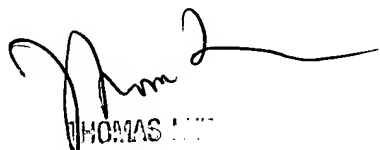2744. The examiner can normally be reached on Monday-Friday from 8:00-4:30.

27.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thomas Lee can be reached on (571) 272-3667. The fax number for the

organization where this application or proceeding is assigned is (703) 872-9306.

28.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Sean Weinman
Examiner
Art Unit 2115